

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

DOCUMENTS REVIEWED

1. Notice of Intent Application prepared by LEC Environmental Consultants, Inc., for the Applicant, dated March 1, 2023, including:
  - a. WPA Form 3 – Notice of Intent
  - b. WPA Appendix B – Wetland Fee Transmittal Form
  - c. Affidavit of Service
  - d. Letter to Abutters
  - e. Abutter Notification Form
  - f. Certified List of Abutters
  - g. Notice of Intent Report
  - h. USGS Topographic Quadrangle
  - i. FEMA Flood Insurance Rate Map
  - j. MassGIS Orthophoto & NHESP Estimated Habitat Map
  - k. Draft Construction Document Set dated September 8, 2022 and revised through April 13, 2023 prepared by Kyle Zick Landscape Architecture, including six sheets:
    - i. Site Preparation Plan
    - ii. Layout and Material Plan
    - iii. Planting Plan
    - iv. Enlarged Planting Plan
    - v. Details
    - vi. Details
  - l. 1021 & 1025 Massachusetts Avenue Comprehensive Permit Plan Set dated September 19, 2022 and revised through April 14, 2023, prepared by Patriot Engineering, including 10 sheets:
    - i. Cover Sheet
    - ii. Existing Conditions Plan
    - iii. Site Demolition Plan
    - iv. Site Layout and Materials Plan
    - v. Erosion Control/Construction Stormwater Plan
    - vi. Site Grading and Drainage Plan
    - vii. Site Utility Plan

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

- viii. Emergency Access Plan
- ix. Site Details - I
- x. Site Details - II
- m. Stormwater Management Report dated September 9, 2022 and revised through April 14, 2023, prepared by Patriot Engineering
- n. 1021 & 1025 Massachusetts Avenue Construction Management Plan Set dated March 2023, prepared by Vanasse & Associates, Inc., including 10 sheets:
  - i. Title Sheet & Index
  - ii. General Notes, Legend & Schedule
  - iii. Construction Details & Sign Summary
  - iv. Phase 1
  - v. Phase 2
  - vi. Phase 3A
  - vii. Phase 3B
  - viii. Phase 4A
  - ix. Phase 4B
  - x. Truck Routing Plans

PROCEDURAL SUMMARY

The Conservation Commission held a public hearing on the Notice of Intent on March 16, 2023 and continued the hearing to April 13, 2023. The Commission closed the hearing on April 20, 2023, deliberated and voted 6-0-0 to approve the Project with conditions under the Wetlands Protection Act (the “Act”).

FINDINGS OF FACT AND LAW  
UNDER  
WETLANDS PROTECTION ACT

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UNDER THE WETLANDS PROTECTION ACT  
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04/20/2023

- A. The project as approved involves redevelopment of the parcels at 1021-1025 Massachusetts Avenue for multi-family housing. The project will demolish two structures and associated driveways, parking lots, and site appurtenances, and construct a 50-unit, 5-story affordable housing condominium building (under Chapter 40B) with ground-level parking garage and retail space.
- B. On-site resource areas include the Riverfront Area to Mill Brook and Buffer Zone to Bank. Resource areas within 100 feet of the site include Bank and Land Under Water.
- C. This NOI Application is being filed under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40, the Act) and its implementing Regulations (310 CMR 10.00, the Act Regulations) only, as the Arlington Zoning Board of Appeals (ZBA) is administering the Town of Arlington Wetlands Protection Bylaw (Article 8, the Bylaw) and its implementing Wetlands Protection Regulations (March 1, 2018, the Bylaw Regulations) under the Comprehensive Permit process. The Applicant filed the Comprehensive Permit Application with the Arlington Zoning Board of Appeals on September 19, 2022.
- D. Approved mitigation for Riverfront Area impacts includes native revegetation to create a restored woodland (approximately 7,362 square feet), including the planting of 125 native trees, 248 native shrubs, groundcover and ferns, and a meadow (approximately 4,119 square feet) on-site, which provide greater than the required 2:1 mitigation on-site for degraded Riverfront impacts within the 100 foot to 200 foot Riverfront area.
- E. Offsite Riverfront enhancement includes native revegetation of a planting area (approximately 3,000 square feet) within the 25-foot inner riparian area.
- F. Based on the testimony at the public hearing and review of the application materials and the documents listed above submitted during the public hearing, the Commission concludes that the work as conditioned will not have significant or cumulative effects upon the interests of the Wetlands Protection Act when the conditions imposed are implemented to protect

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

the Resource Area values. With the conditions contained herein, the Project meets the performance standards in the State Wetlands Regulations, 310 CMR 10.00.

Additional Special Conditions

In addition to the General Conditions (numbered 1 – 20 above), the Project is subject to the following Additional Special Conditions (under the Act):

**Pre-Construction**

21. Work permitted by this Order shall conform to the Notice of Intent, the approved plans and documents (listed above), and oral representations (as recorded in hearing minutes) submitted or made by the Applicant and the Applicant's agents or representatives, as well as any plans and other data, information or representations submitted per these Conditions and approved by the Commission.
22. The provisions of this Order shall apply to and be binding upon the Applicant and Applicant's assigns, tenants, lessees, property manager, employees, contractors, and agents.
23. The Applicant shall ensure that a copy of this Order, with any referenced plans, is always available on site, and that contractors, site managers, foremen, and sub-contractors understand its provisions.
24. The lead contractor shall sign and return to the Conservation Agent an acknowledgment that contractors, site managers, foremen, and sub-contractors cannot deviate from the approved plans without Commission approval.
25. If there are conflicting conditions within this Order, the stricter condition(s) shall govern.
26. No work shall begin under this Order until: (a) all other required permits or approvals have been obtained and (b) the appeal period of ten (10) business days from the date of issue of this Order has expired without

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

any appeal being filed, and (c) proof that this Order has been recorded in the Registry of Deeds has been submitted to the Conservation Agent.

27. Prior to any work on the site, or within six (6) weeks of the date of this Order, whichever comes first, this Order of Conditions and relevant attachments, including any and all operations and maintenance plans, shall be recorded at the Middlesex Registry of Deeds or Land Court, and notice filed with the Commission. Failure to do so shall be deemed cause to revoke this Order.
28. Prior to starting work, the Applicant shall submit to the Commission the names and 24-hour phone numbers of project managers or the persons responsible for site work or mitigation.
29. Before work begins, erosion and sediment controls shall be installed at the limits of the work area or as outlined on the approved plans. Unless otherwise specified, erosion controls will include a silt fence and a biodegradable 12-inch diameter mulch sock around the entire work area. Hay bales are not allowed.
30. Prior to any work commencing, a sign no less than 2 square feet or more than 3 square feet, visible from the street, shall be displayed reading **“MA DEP File # 091-0335”** and not placed on a living tree.
31. The contractor shall contact the Conservation Agent (concomm@town.arlington.ma.us ; 781-316-3012) at least 72 hours prior to commencement of work to arrange for a pre-construction meeting with the on-site project manager to walk through the Order of Conditions for Work, confirm the concrete wash out location, and walk the site to confirm the installation and placement of erosion controls prior to the start of any grading or construction work.
32. The Commission, its employees, and its agents shall have the right of entry onto the site to inspect for compliance with the terms of this Order of Conditions until a Certificate of Compliance has been issued.
33. Any backfill or reuse of on-site materials shall be free of contamination in accordance with the Massachusetts Contingency Plan,

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

310 CMR 40.0000. All fill used in connection with this project shall be clean borrow. The following shall be prohibited: concrete and asphalt rubble; crushed glass; stumps, invasive plants or debris, and other solid waste or anthropogenic materials.

34. Any access agreement required for the offsite enhancement area shall be completed and provided to the Conservation Commission prior to commencement of construction.

**Dumpsters**

35. All dumpsters shall be located outside of any Resource Area unless otherwise approved by the Commission.

**Stockpiling**

36. Any stockpile of soil, sand, or similar materials that is permitted within said areas shall be enclosed within a line of entrenched and staked mulch socks or silt fence in addition to the perimeter erosion controls for the site. In the event that all earthwork ceases for more than 15 days or if inclement weather is imminent, all exposed stockpiled soils shall be stabilized with a temporary vegetative cover, tarp, or other erosion control acceptable to the Conservation Commission.

**Erosion**

37. Areas that are disturbed by construction and access activities shall as soon as possible be brought to final grade and reseeded and restabilized and shall be done so prior to the removal of the erosion control barrier. Erosion control measures shall be installed per the approved plans or as directed by the Conservation Agent.
38. The Conservation Commission and its Agent shall have reasonable discretion to require additional erosion/siltation control methods during construction if necessary.
39. Upon completion of the project, the applicant shall remove and legally dispose off-site of all temporary erosion controls and other materials determined to be detrimental to the resource areas if left in place permanently.

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

**Equipment**

40. No heavy equipment may be stored overnight within 100 feet of the wetland. No refueling or maintenance of machinery shall be allowed within the 100-foot Buffer Zone or 100-foot inner riparian area unless otherwise approved by the Commission.
41. Construction entrances shall be used and maintained only where noted on approved plans.
42. Arrangements shall be made for any rinsing of tools, equipment associated with on-site mixing or use of concrete, rubber, or other materials such that the wastewater is disposed of in the concrete wash out station. In no case may waste water be discharged into or onto Resource Areas on or adjacent to the site. In no case may waste water be placed in storm drains. Any spillage of materials shall be cleaned up promptly.
43. If vehicle washing is proposed onsite, contact the Arlington Conservation Commission and/or Conservation Agent ([concomm@town.arlington.ma.us](mailto:concomm@town.arlington.ma.us): 781-316-3012) to determine appropriate location so as to not impact Mill Brook.

**Sweeping**

44. Any dirt or debris spilled or tracked onto any paved streets shall be swept up and removed daily.
45. The areas of construction shall remain in a stable condition at the close of each construction day.

**Dewatering**

46. Any dewatering operations shall conform to the following:
  - a. If dewatering is needed, the Applicant must submit for review a dewatering plan to the Conservation Agent.
  - b. Any catch basins, drains, and outfalls to be used in dewatering operations shall be cleaned out before operations begin.
  - c. Any water discharged as part of any dewatering operation shall be passed through filters, on-site settling basins, settling tank trucks, or other devices to ensure that no observable sediments or pollutants

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

are carried into any Resource Area, street, drain, or adjacent property.

- d. Measures shall be taken to ensure that no erosion or scouring shall occur because of dewatering operations.
- e. Dewatering shall occur only where noted on approved plans.

**Plantings and Vegetation**

- 47. All mitigation plantings in the restored woodland and meadow shall be as specified in the planting plan of April 13, 2023, and installed and maintained according to the standards of the American Association of Nurserymen (AAN). All on-site native mitigation plantings shall be monitored for three (3) full growing seasons after installation is certified by the environmental monitor as complete. A survival rate of 90% of trees and at least 80% of other vegetation in the planting plan must be maintained and demonstrated, at the end of the monitoring period unless otherwise approved by the Commission.
- 48. Based on the Applicant's agreement with the Conservation Commission to adhere to the conditions in the ZBA's Comprehensive Permit, after the initial three year monitoring period for the on-site restored woodland, annual monitoring reports will be provided to the Arlington Zoning Board of Appeals and Conservation Commission by November 15<sup>th</sup> of every year for an additional 7-year monitoring period so that the monitoring period is 10 years after installation of the restored woodland. These additional monitoring reports will describe the condition of the restored woodland, overview the management efforts undertaken over the past growing season (such as plant replacement, invasive species management, etc.), and describe the anticipated management efforts required for the subsequent growing season so that the restored woodland successfully matures as designed. These additional monitoring reports shall include representative photographs of the restored woodland from photographic stations established within the woodland, such that year to year images can be compared.
- 49. All enhancement plantings in the off-site area adjacent to Mill Brook shall be as specified in the planting plan of April 13, 2023, and installed and maintained according to the standards of the American Association of Nurserymen (AAN). All off-site native enhancement plantings shall be



ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

monitored for two (2) full growing seasons after installation is certified by the environmental monitor as complete. A survival rate of 90% of trees and 80% of other vegetation in the off-site area planting plan must be maintained and demonstrated at the end of the monitoring period, unless otherwise approved by the Commission.

50. A monitoring report shall be submitted annually to the Conservation Agent in November for the monitoring periods as stated in Conditions #47, #48, and #49bn . The reports shall include the number and types of restoration plantings evaluated, condition of the plantings, and status of invasive plant removal. The Applicant must provide a monitoring report by a qualified consultant for survival of all approved plantings. The monitoring report must include measures to remove invasive species if they are discovered.
51. Any planting areas provided as mitigation (restored woodland and meadow) shall be maintained in perpetuity. **This shall be a continuing condition that survives the expiration of this Order and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**
52. The invasive species management set forth on the approved plans (Document #1.k.iii) for the restored woodland and meadow mitigation areas on-site shall be ongoing. **This shall be a continuing condition that survives the expiration of this Order and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**
53. There shall be no dumping of woody vegetation, leaves, grass clippings, brush, or other debris into a wetland resource area or associated buffer zones. **This shall be a continuing condition that survives the expiration of this Order and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**

#### **Fertilizer and Chemical Use**

54. To avoid adding excess nutrient runoff, the Applicant shall only treat existing lawn area with no phosphorous, low nitrogen, slow-release fertilizer and it shall be applied at the lowest rate necessary. Any

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

application of phosphorus-containing fertilizers for new lawn must be first reviewed and approved by the Conservation Agent. Except for the establishment of vegetation in the first growing season, the Application of lawn fertilizer cannot occur in the summer, or before or after storm events. Lawn fertilizer shall at most be applied twice a year. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**

55. No pesticides or rodenticides shall be used to treat pest management issues. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**

56. No herbicides or chemical treatment methods are permitted except as approved per the invasive management plan (Document #1.k.iii).

#### **Pervious Surfaces**

57. Pervious surfaces shown on the approved project plans (Document #1.k and #1.l) shall be maintained and not be replaced by impervious surfaces. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**

#### **Stormwater**

58. The Applicant shall protect all adjacent catch basins using silt sacks.
59. The project shall not cause an increase in run-off or stormwater volume onto adjacent properties, either during construction or when completed.

#### **Snow and Deicing**

60. Dumping of snow into resource areas is prohibited and shall comply with the current Mass. DEP Bureau of Water Resources Snow Removal Guidance.
61. Deicing chemicals containing sodium, potassium, and calcium chloride are prohibited from use in the wetland resource area and the

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

associated 100-foot buffer. An alternative deicing product such as magnesium chloride (MgCl) may be used as recommended in the Winter Parking Lot and Sidewalk Maintenance Manual published by the Minnesota Pollution Control Agency, <https://www.pca.state.mn.us/sites/default/files/p-tr1-10.pdf>. **This shall be a continuing condition that survives the expiration of this Order and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**

### **Project Completion**

62. Upon completion of the project or 60 days prior to the expiration of this Order of Conditions, the Applicant or a representative thereof shall file for a Certificate of Compliance.
63. The Applicant shall install permanent signage along the path in the restoration woodland planting area describing that the area is subject to an Order of Conditions under the Wetlands Protection Act, that the area was created as on-site mitigation to reduce impacts to Mill Brook, and that the area shall remain a woodland planting area in perpetuity. The sign shall be readily legible to visitors and not secured to a living tree.
64. When requesting a Certificate of Compliance for this Order of Conditions, the Applicant must submit a written statement from qualified professional(s) licensed and/or registered to work in Massachusetts. A professional engineer, registered land surveyor, and/or registered landscape architect shall certify that the completed work complies with the plans referenced in this Order and the professional(s) shall provide an as-built plan and statement describing any differences.
65. All on-site mitigation as proposed as part of this project shall remain in perpetuity. The approved restored woodland and meadow planting areas, invasive removal areas, and the stormwater system shall remain in perpetuity and if replacement is necessary, shall be subject to the approval of the Commission. **This shall be a continuing condition that survives the expiration of this Order of Conditions and shall be included in any Certificate of Compliance as a continuing condition.**

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

66. Based on the Applicant's agreement with the Conservation Commission to adhere to the conditions in the ZBA's Comprehensive Permit, the Applicant shall undertake monitoring as set forth in the Comprehensive Permit and provide the Conservation Commission with any monitoring reports.
67. Perimeter fencing shall conform to the description on the approved plans (Document #1.l) and be constructed of wood with a 4" gap at the bottom for wildlife passage.
68. Prior to commencement of construction, the Applicant must hire a qualified environmental monitor with qualifications reasonably acceptable to the ZBA and Conservation Commission. The environmental monitor shall conduct periodic inspections throughout the duration of the project. This period shall begin when siltation controls are installed and shall end with issuance of a Certificate of Compliance. The monitor shall submit an electronic report to the ZBA and Conservation Commission weekly regarding construction progress, relation to resource areas, and shall state whether such work is in their professional opinion in compliance with the comprehensive permit and Order of Conditions. During the duration of the project, the qualified environmental monitor shall also submit an electronic report after every rain event exceeding 0.5 inches of rain in a 24-hour period to the ZBA and Conservation Commission regarding the condition of the site during and after the rain event, as well as the status of erosion controls and any additional measures to address stormwater management issues caused by said rain event. The Conservation Commission reserves the right to change the frequency of inspections based on contractor performance, weather, or site conditions. All materials required to be submitted to the ZBA and Conservation Commission shall also be submitted to the Environmental Monitor.

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

69. Prior to mitigation planting, the Applicant must hire a qualified landscape architect with qualifications reasonably acceptable to the ZBA and Conservation Commission to be on-site during the installation of the restored woodland and meadow areas. Upon completion of the mitigation plantings, the landscape architect shall submit a report to the ZBA and Conservation Commission on the health of the plantings and whether such work is in their professional opinion in compliance with the comprehensive permit and Order of Conditions.
70. The Applicant must hire a professional engineer to oversee the installation of the stormwater management system. A report describing installation of the stormwater management system must be submitted to the ZBA and Conservation Commission within 10 days of the completion of the stormwater management system. The stormwater report shall include as-built plans, photographs from installation, and a written summary of the installation of the stormwater management system and stormwater best management practices (e.g., porous pavement and other stormwater features, as applicable).
71. The Applicant shall submit the contact information of the party responsible for monitoring and maintaining the mitigation and enhancement planting areas to the ZBA and Conservation Commission. Should any changes be made to this party, the ZBA and Conservation Commission shall be notified. **This shall be a continuing condition in perpetuity that survives the expiration of this Order of Conditions and shall be included in any Certificate of Compliance as a continuing condition.**
72. All stormwater infrastructure, green infrastructure, and infiltration devices must be maintained per manufacturer specifications and an approved Operations and Maintenance plan, or Long-Term Pollution Protection Plan. The contact information for the person responsible for the implementation of the Long-Term Pollution Protection Plan shall be provided to the Conservation Agent. The plan shall include inspection by the applicant no less than once every six months, and cleaning and maintenance as needed based on inspection. The approved Operations and Maintenance Plan shall be included in the Order of Conditions recorded at the Registry of Deeds. Records of said inspection and cleaning shall be

ARLINGTON CONSERVATION COMMISSION  
**APPROVAL** ORDER OF CONDITIONS – MassDEP File # 091-0335  
UNDER THE WETLANDS PROTECTION ACT  
Redevelopment of Multi-Family Housing  
04/20/2023

maintained on site and made available to the Conservation Commission upon request.